UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION DOCKET NO. 1:16-cr-00039-MOC-DLH

UNITED STATES OF AMERICA,
)

Vs.

ORDER

DANIELLE DEVONNA JONES,
)

Defendant.

THIS MATTER is before the Court on defendant's oral request for issuance of subpoenas at government expense. In pertinent part, Rule 17(b) provides:

(b) Defendant Unable to Pay.

Upon a defendant's ex parte application, the court must order that a subpoena be issued for a named witness if the defendant shows an inability to pay the witness's fees and the necessity of the witness's presence for an adequate defense. If the court orders a subpoena to be issued, the process costs and witness fees will be paid in the same manner as those paid for witnesses the government subpoenas.

Fed.R.Crim.P. 17(b). The practice in this district has been to require either a brief statement as to the substance of the testimony. Defendant has substantially complied with the requirement of such a statement. Having determined that the government will subpoen four of the witnesses requested and that they will not be released from the subpoena until such time as defendant is able to call them during her evidence, and that the remaining four appear to be tendered for purposes of supporting an alibi defense, either through live testimony or through records which may be in their possession, the court will allow her request, as follows.

ORDER

IT IS, THEREFORE, ORDERED that:

- (1) defendant's request for issuance of subpoenas at government expense is **ALLOWED** in part as to the following witnesses, who defendant states may be served at the following addresses:
 - (a) Linda "Last Name Unknown" @ Casino Promotions 3601 Chateau Drive -A
 Columbia, South Carolina 29204
 (803) 787-1831
 - (b) Harrah's Casino Manager account records 777 Casino Drive Cherokee, North Carolina 28719 (828) 497-7777
 - (c) Enterprise General Manager account records 7611 ½ Garners Ferry Rd.
 Columbia, South Carolina 29209 (803) 776-9461
 - (d) Super 8 Motel General Manager check in footage, record of blackout 180 Tunnel Road
 Asheville, North Carolina
 (828) 505-4648.
- (2) As a logistical matter, the court asks **standby counsel** for defendant to make sure that any subpoenas allowed pursuant to this order be filled out properly, issued by the Clerk of Court, and delivered to the United States Marshal for service forthwith. Furthermore, standby counsel should distinguish between subpoenas for live testimony (Rule 17(b)) and subpoenas *duces tectum* (Rule 17(c)) as it appears that what defendant may be seeking is records. As subpoenas not identifying a person by first and last name is likely to be returned as un-servable, standby counsel should work closely with the defendant in determining precisely who she is

seeking to serve, what information or materials she wishes to obtain, and whether the address is likely to result in that person being served. Standby counsel may also utilize the services of the Federal Defender if service by that office does not create a conflict. As far as any production made for subpoenas issued under Rule 17(c), the court directs that such return be made to the Clerk of Court on a date certain before trial so that the court may control the chain of custody of any evidence so produced. However, if defendant elects to activate counsel, such return should be made in a manner mutually agreeable to counsel for the government and the defendant.

(3)The costs incurred in service of process and the fees of witnesses so subpoenaed shall be paid in the same manner in which similar costs and fees are paid in the case of a witness subpoenaed on behalf of the government.

Signed: May 30, 2017

United States District Judge